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FISCAL IMPACT STATEMENT

LS 7077

BILL NUMBER: SB 325

NOTE PREPARED: Jan 1, 2004

BILL AMENDED:

SUBJECT: Uniform Mediation Act.

FIRST AUTHOR: Sen. Simpson

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: No Fiscal Impact

Summary of Legislation: This bill permits the use of voluntary or required mediation to assist parties in resolving a dispute, with the exception of: (1) a dispute related to a collective bargaining agreement; (2) mediation conducted by a judge who will make a ruling in the case; (3) mediation conducted under the auspices of a primary or secondary school if all the parties are students; or (4) mediation conducted under the auspices of a juvenile correctional facility if all the parties are residents of the institution. The bill provides that communications made in mediation are generally privileged, subject to waiver and other exceptions. It prohibits a mediator from making certain substantive disclosures to a court or other agency that may make a ruling on the case but permits a mediator to disclose procedural matters. It also prohibits the use of a mediator with a potential conflict of interest unless the conflict is disclosed to the parties and waived.

Effective Date: July 1, 2004.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: This bill would essentially put into code what is already observed in practice regarding mediation.

Background: Mediation is a process in which a neutral third person, called a mediator, acts to encourage and to assist in the resolution of a dispute between two or more parties. This is an informal and nonadversarial process. The objective is to help the disputing parties reach a mutually acceptable agreement between or among themselves on all or any part of the issues in dispute. Decision-making authority rests with the parties,

not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving, exploring settlement alternatives, and in other ways consistent with these activities.

Mediation Costs: Absent an agreement by the parties, including any guardian ad litem, court-appointed special advocate, or other person properly appointed by the court to represent the interests of any child involved in a domestic relations case, the court shall set an hourly rate for mediation and determine the division of such costs by the parties. The costs should be predicated on the complexity of the litigation, the skill levels needed to mediate the litigation, and the litigants' ability to pay. The mediation costs shall be paid within 30 days after the close of each mediation session.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Courts.

Information Sources: The background information in the fiscal note is quoted from the following website; http://www.courts.state.in.us/CourtMed.nsf/adr_rule.

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